

RECEIVED  
CENTRAL FAX CENTER

Application No. 10/675,294 - - - - 2

OCT 29 2007

Remarks

Claims 1-7, 9-28, and 30-48, inclusive, are under consideration.

The rejection of all claims under 35 U.S.C. 102(e) as anticipated by U.S. Patent No. 6,846,218 to Kermode et al. is unwarranted and is hereby traversed.

Kermode et al. do not show the presently claimed breast stabilizer element for radial compression of at least a portion of the human breast, yet the onus is on the Examiner to do so. Breast elevating module 15 clearly is not a breast stabilizer that surrounds a through aperture, that radially compresses at least a portion of the breast and, as presently claimed, has an adjustable circumference. Such an element simply is not taught by Kermode et al. As is well established, in order to anticipate the applied reference must show each and every element of the claim. That is not the case here.

Kermode et al. do show, however, a breast stabilizing ring 25 that is positioned about the nipple. See, for example, FIG. 1 and col. 6, lines 48-63. Breast stabilizing ring 25 of Kermode et al. is an entirely different structural element that, co-acting with flexible tabs 18 and 19, serves to elevate the nipple away from base 16. Breast stabilizing ring 25 is not integral with the base 16, does not have an adjustable circumference, and does not provide radial compression for the breast. Accordingly, expressly recited claim elements are not present in the applied reference.

Independent claims 1, 21 and 42 are readily distinguishable over Kermode et al. for the foregoing reasons. Likewise, the claims dependent directly or indirectly on the aforesaid independent claims are similarly distinguishable inasmuch as these dependent claims incorporate therein the very same limitations. Breast elevating module 15 of Kermode is not a breast stabilizer integral with a base member, but is made of several separate and distinct parts.

Claims 44-48 are method claims. The claimed methods are not taught by Kermode et al. The claimed method steps are not found in Kermode et al. The Examiner has not pointed out with particularity any portion of the Kermode et al. disclosure that even arguably anticipates the claimed methods.

The asserted anticipation rejection of all claims is not supported by the record. Withdrawal of this rejection is earnestly urged.


Early passing of this application to issue is solicited.

Application No. 10/675,294 - - - - 3

Early passing of this application to issue is solicited.

Respectfully submitted,

October 29, 2007

By   
Talivaldis Cepuritis (Reg. No. 20,818)

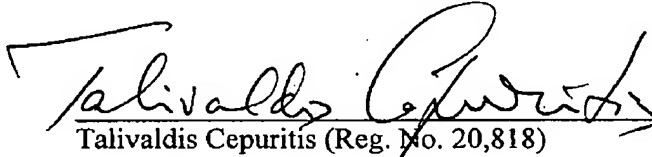
OLSON & HIERL, LTD.  
20 North Wacker Drive  
36th Floor  
Chicago, Illinois 60606  
(312) 580-1180

Enclosure: Certificate of Facsimile Transmission

Application No. 10/675,294 - - - - 4

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this RESPONSE UNDER RULE 116 and TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT are being transmitted by facsimile transmission to Fax No. 571-273-8300 on October 29, 2007.

  
Talivaldis Cepuritis (Reg. No. 20,818)